

### REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-18 are pending and stand rejected. .

Claims 1, 11 and 16 are independent claims.

Claims 1, 11 and 13-16 have been amended.

Claim 15 stands rejected under 35 USC 112, second paragraph as being incomplete. Claim 15 stands rejected under 35 USC 102(b) as being anticipated by Ferrari (USP no. 3, 476, 886). Claims 1-14 and 16-18 stand rejected under 35 USC 102(b) as being anticipated by Ticknor (WO 02/069016 or USP 7016560).

With regard to the objection to claim 15, applicant has elected to amend this claim to depend from independent claim 11. In this context, claim 15 recites subject matter that further defines the subject matter in corresponding independent claim 11.

Applicant submits that claim 15 is now in an appropriate form and the reason for the objection has been overcome.

With regard to the rejection of claim 15 as being anticipated by Ferrari, applicant respectfully disagrees with and explicitly traverses the rejection of the claims. However, as noted above, claim 15 has been amended to depend from claim 11 and, hence, includes subject matter not disclosed by Ferrari.

For the amendment made to claim 15, applicant submits that the reason for the rejection has been overcome.

With regard to the rejection of claims 1-14 and 16-18 as being unpatentable over Ticknor, applicant respectfully disagrees with and explicitly traverses the rejection of the claims.

Ticknor discloses a microfluidic control for waveguide optical switches including a chamber containing a volume of a first fluid contained within volumes of a second fluid (see Figure 45A) wherein the first fluid may be positioned within the chamber by the application of a electric current (see Figure 4) to the walls of the chamber. Ticknor further discloses that as the first fluid moves within the chamber, the second fluid is displaced and the displaced fluid is moved to a reservoir positioned at the end of the chamber (Figure 45A). Ticknor further discloses that the reservoirs are sufficiently large to include an amount of the second fluid and an air space. Thus, as the second fluid is pushed into the reservoir, by movement of the first fluid, the air space within the corresponding reservoir decreases and the air pressure within the reservoir increases. Similarly, as the first fluid moves toward on one end of the chamber, the air space in the opposite reservoir increases as second fluid is push out of the reservoir to occupy the space in the chamber left empty by the movement of the first fluid.

Thus, in the embodiment of the device disclosed by Ticknor, the reservoirs are independent entities used to accommodate the displaced fluid and the increased air pressure is advantageous to provide a substantially consistent pressure on the second fluid to assist in moving the second fluid from the reservoir.

Ticknor, however, discloses that an additional fluid channel may be connected between the reservoirs to provide a channel to equalize the air pressure within the reservoirs as the first fluid moves within the chamber.

However, Ticknor fails to disclose any fluid connection to allow the second fluid to be transferred from one end of the chamber to the other end as the first fluid moves within the chamber, as is recited in the claims.

A claim is anticipated if and only if each of the elements recited in the claims is recited in a signal prior art reference.

Ticknor cannot be said to anticipate the subject matter recited in the independent claims, as Ticknor fails to disclose a material element recited in the

claims.

Notwithstanding the argument above, applicant has elected to amend the independent claims to further recite that a size of the volume of said one of the fluids is chosen so that at least one of said two electrodes remains in contact with said volume. No new matter has been added. Support for the amendment may be found at least on page 11, lines 4-8.

Ticknor fails to provide any teaching regarding determining a size of the volume of the fluids and a relationship to the electrodes, as is recited in the claims.

Accordingly, for the amendments made to the claims and for the arguments presented, herein, applicant submits that the rejection of each of the independent claims has been overcome.

With regard to the rejection of the remaining claims, these claims depend from the independent claims and, hence, are also allowable by virtue of their dependency upon an allowable base claim

For the amendments made to the claims and for the remarks made, herein, applicant respectfully requests that the rejection be withdrawn and a Notice of Allowance be issued.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended the claims solely to facilitate expeditious prosecution of this patent application. Applicant

respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

Should the Examiner believe that the disposition of any issues arising from this response may be best resolved by a telephone call, the Examiner is invited to contact applicant's representative at the telephone number listed below.

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,  
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